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Institute for Policy Research

Temporary agency work in the UK today: Precarity intensifies despite protective legislation

About this research

In the last quarter of 2014, the UK unemployment rate reached its lowest level for more than six years (5.8%). However, this fall in unemployment was accompanied by a rise in temporary, insecure and precarious work for both British and migrant workers. Temporary agency work (TAW), which reached a historical high during the recent financial crisis (Forde and Slater, 2014), constitutes a significant part of this job-growth. Estimates on the number of temporary agency workers in the UK economy vary. Labour Force Survey (LFS) data point to 321,165 temporary agency workers in the UK in 2012, constituting 1.27% of the employed workforce (Forde and Slater, 2014). In the same year, the British government, as well as the employers' organisation Recruitment and Employment Confederation (REC, 2014) jointly estimated the number of agency workers at around 1.1 million.

'Jobs-to-Rent', research by Dr Thanos Maroukis (Department of Social and Policy Sciences, University of Bath), analysed interviews with British and migrant temporary agency workers about their experiences in three sectors of the UK labour market: the hospitality, healthcare and food industries. Over the last decade, significant policy initiatives, notably the European Union Agency Worker Regulations (AWR), have sought to mitigate the precariousness and vulnerability of temporary agency workers. However, *Jobs-to-Rent* found that agencies and companies use legal loopholes and exemptions to circumvent regulatory protections for these workers. In doing so, these employers intensify the employment insecurity and precarious living conditions of agency workers.

Research findings in context

Legal protections are not robust enough

The adoption of the European Union Agency Workers Regulations (AWR) on 1 October 2011 was a landmark legislative step in the protection of temporary agency workers in the British labour market. The AWR entitles temporary agency workers who complete 12 weeks of continuous employment in the same firm to pay and conditions equal to that of equivalent permanent employees of that firm. Some temporary work agencies and employers, concerned that the AWR would weaken their ability to recruit, lobbied for the introduction of Swedish Derogation (SD) contracts. SD contracts provide agency workers with a small amount of pay between agency assignments (i.e. when there is no work) but workers on SD contracts forfeit their entitlement to equal pay and conditions after the 12-week qualifying period. *Jobs-to-Rent* found that SD contracts are used by temporary work agencies and employers to circumvent the conditions of the AWR.

Sector-specific initiatives in the food industry have raised awareness about labour exploitation. For example, the Gangmaster Licensing Authority (GLA), established in 2004, has powers to stop non-compliant businesses and temporary employment agencies trading in the UK food industry. In collaboration with large retailers and stakeholders, such as the Association of Labour Providers (ALP), the GLA has developed pragmatic good guidance and resources to help businesses and agencies prevent and tackle hidden forced labour and human trafficking in their supply chains. Nevertheless, the GLA does not have jurisdiction in all sectors, leaving some workers, without protection from exploitative employers.

TAW in healthcare and hospitality is poorly regulated.

The labour supply chains of healthcare providers (e.g. hospitals, care homes, home care providers) and hospitality businesses (e.g. hotels, restaurants, pubs, cafes) fall outside the legal remit of the GLA and are therefore poorly regulated. Due to the high incidence of informal direct employment and the high cost of agency labour, businesses more frequently use zero-hour contract workers rather than agency workers. Nevertheless, labour recruitment in these sectors relies substantially on collaborations with foreign and British employment agencies that charge workers illegal placement fees.

Evidence from *Jobs-to-Rent* further suggests widespread practices of bogus national insurance and emergency tax deductions, as well as non-payment of travel-to-work costs for most agency workers in these industries. As a result, certain occupational groups (e.g. care workers, hotel cleaners) are paid well below the national minimum wage. Copying forced labour practices that

Key findings

- Employment agencies and companies in the food, hospitality and healthcare sectors circumvent the legislative protections of the European Union Agency Workers Regulations (AWR).
- TAW in healthcare and hospitality is particularly poorly regulated; these sectors fall outside the remit of the Gangmaster Licensing Authority (GLA), which regulates agency employment in the food industry.
- Temporary agency workers do not earn an adequate income and may have to rely on welfare benefits.
- TAW does not offer long-term prospects for better jobs.
- Temporary agency workers bear the costs of austerity in healthcare as providers downsize permanent contract workforces in favour of large ad hoc ones.
- Overall, TAW offers insecurity rather than flexibility.

were widespread in UK horticulture ten years ago, healthcare agencies and providers (mainly care homes) trap migrant agency workers in 24/7 working conditions by providing them with accommodation. Often in debt to the agency that brokered their job placement and living in overpriced rented rooms on or near the work premises, these workers are forced to be on call at all times and have no control over their private lives.

Pyrrhic victory? Temporary agency work legislation has improved but management practices undermine protections in the food industry.

Some labour market practices, such as charging prospective migrant workers for a placement in UK farms, unlawful deductions for accommodation, transport and national insurance, and entrapment of workers in forced labour conditions have been mitigated in British agriculture during the last decade by the GLA. However, *Jobs-to-Rent* shows that the growth of the labour recruitment industry outside the UK, at the non-British end of the agricultural labour supply chain, limits the GLA's positive impact in tackling labour exploitation on British soil. Indicatively, the study reveals that seasonal work placements in UK farms advertised by foreign agencies are well above the yearly cap set by the British government.

Elsewhere in the food supply chain, *Jobs-to-Rent* found that UK food industry firms resort to more discreet strategies to circumvent labour legislation and exploit temporary labour. Multinational corporations operating large retailer depots use SD contracts to avoid having to provide the same pay and conditions for agency workers as for permanent employees. Such contracts provide such low levels of income that it is inadequate to live on when assignments end. The research also found that these companies routinely and deliberately misuse their own labour performance systems to discharge agency workers before they complete the AWR's 12-week qualifying period for equal pay.

Working and living conditions of temporary agency workers are poor

Hard work does not pay. In all three sectors (food, hospitality and healthcare), work shifts are allocated at random and do not provide a sustainable standard of living, even in the short term. All interviewed Eastern Europeans living on two-to-three weekly assignments from agencies during their first months in the UK had to stay in overcrowded accommodation and could hardly afford their share of the rent. Two of them applied for working tax credits during the first six months of an agency placement at a large retailer depot in order to avoid getting deeper into debt to fellow nationals, landlords or the agency. Any future policies that cut benefits to EU migrants could aggravate the insecurity experienced by temporary agency workers. Welfare benefits are a crucial mechanism in helping temporary agency workers maintain a decent standard of living in the short term.

Temporary agency work offers no long-term prospects of better jobs. Working hard does not pay off for agency workers in the long term, despite protections provided by instruments such as the AWR. Regardless of worker performance, agency workers are often switched from TAW to SD contracts or dismissed after 12 weeks so that employers do not have to offer them the same pay and conditions as permanent employees. For example, agency workers are routinely dismissed from jobs in the food industry just before qualifying for equal pay and conditions.

Temporary agency workers bear the costs of austerity in healthcare. The pressure of private financing and local government cuts on clinical care budgets increasingly result in healthcare providers trying to deliver care with a smaller permanent

contract workforce and a larger *ad hoc* one (CIPD, 2013; BIS, 2013). In effect, the pressure falls on the *ad hoc* temporary agency and zero-hour contract workers to speed up the work process, posing risks to themselves and to patient care, without the reward of a permanent contract. Paraphrasing interviewees' words, it is as if managers try to introduce the line production style of food industry packhouses into healthcare settings. Falling ill is not an option for agency workers, while rest breaks are a luxury in the hospitality and healthcare sectors.

Temporary agency work offers insecurity not flexibility. According to a recent Recruitment and Employment Confederation survey (REC, 2014) one in four agency workers took up agency work for the greater flexibility it offers compared to permanent contract employment. Sixteen percent of women did so in order to work flexible hours and still be able to look after their children. In stark contrast, the *Jobs-to-Rent* cross-sectoral study points out that temporary agency work does not offer flexibility as much as a pervasive sense of employment precariousness, which translates into all other areas of people's lives. Only two interviewees, in a sample of 84 British and migrant agency workers, valued the flexibility of agency work – a care worker with a stable income in her family household (from her partner) and children in school, and a chef with no family ties who prefers to travel rather than settle down in one place.



Policy implications

- The Gangmaster Licensing Authority's (GLA) remit should be extended to the healthcare and hospitality sectors.
- Enforcement authorities should take measures to ensure that retailers do not manipulate their shop-floor labour performance systems in order to dismiss agency workers just before they become entitled to equal pay.
- Government regulatory guidance on agency contracts should be revised to clarify the minimum hours that agencies are obliged to pay workers between assignments.
- Future reviews of welfare policies should acknowledge and take account of the insecurity endured by both British national and migrant temporary agency workers.

Methodology

These research findings from the UK are part of a larger international comparative project, *Jobs-to-Rent*, which explored how regimes of temporary and precarious employment operate over time in different labour market sectors in the UK and Greece. The UK study largely drew on documentary analysis and 84 qualitative interviews with migrant and British temporary agency workers. A further 26 interviews were conducted with employment agencies and employers, civil society stakeholders and labour market control enforcement authorities. The research was funded by the European Commission, 7th Framework Program, People, Marie Curie Actions (FP7-PEOPLE-2011-IEF) and conducted in 2012-2014. The European Commission has funded this project, but the views expressed are those of the author and not those of the Commission. More information, including the Research Report, is available at www.bath.ac.uk/casp/projects/migration-and-temporary-agency-work/index.html.

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More on this research:

Maroukis, T. (2015), *Jobs To Rent: Migration and Temporary Agency Work in the EU welfare, tourist and agricultural sectors*. PEOPLE – Marie Curie Actions – European Commission, University of Bath.

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